

Faulk, Camilla

From: Micheline Murphy [Micheline.Murphy@nwdefenders.org]
Sent: Monday, January 03, 2011 10:46 AM
To: Faulk, Camilla
Subject: CrR 4.11--revised text

To the Court—my name is Micheline Murphy. I am writing in support of the proposed changes to CrR 4.11.

I have been a public defender for the past ten years and a part of my duties as a person's defender includes interviewing witnesses in preparation for trial, and I have interviewed witnesses in all manner of cases, including sex offenses, robberies and assault cases involving serious injuries, and fraud cases with many thousands of dollars at stake. I have had the chance both to utilize audio recording as well as the situation where audio recording was consistently blocked.

Audio recording is the best, most efficient way of preserving an accurate record of witness' anticipated testimony. Even with the assistance of an investigator taking notes, it is not possible to capture every word and all of the nuances of the witness' account simply by taking notes. An accurate record avoids costly, contentious, or drawn-out court battles about what the witness may or may not have said at interview.

The majority of concerns about audio recording stem from prosecution and law enforcement concerns that the victims not be "revictimized" or "unempowered" by requiring audio recording in the presence of the defense team. I would point out, that in my experience, many law enforcement agencies are now employing not only audio but video recording for victim and witness interviews now, most notably in sex offenses. It seems to me that the objection isn't so much the presence of the tape recorder, as the presence of the defense team. It also seems to me that if a witness cannot speak the truth to a tape recorder in a conference room sitting down at a table in a relaxed setting, then how are we to rely upon that witness' testimony in the formal and proper setting of a court, also recorded?

Please adopt Rule 4.11 as proposed. MM

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